IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.14886 of 2006
Date of decision: September 26,2006

Parabhjit Singh Gill V. State of Punjab and others

CORAM: HON'BLE MR.JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S.BHALLA

Present: Shri Arun Jain,Advocate with Mr. H.S.Sethi,Advocate for the petitioner.
Shri Sukhdip Singh Brar, Additional Advocate General,Punjab, for respondent No.1.
Shri Atul Nehra, Advocate for respondent No.2.
Shri D.S.Patwalia, Advocate for respondent No.3.
Shri Pawan Mutneja,Advocate for respondent No.4.

Viney Mittal,J.

Petitioner, Parabhjit Singh Gill has challenged the admission granted to Abinav Mutneja, respondent No.4 in MBBS Course for the Session 2006 in Christian Medical College and Hospital,Ludhiana, respondent No.3. The aforesaid challenge has been made by the petitioner on the ground that respondent No.4 was lower in merit than the petitioner in NRI category.

The petitioner passed his 10+2 examination from Central Board of Secondary Education in the year 2006. He secured 85.33% marks in the said examination. Consequently he was eligible for admission in MBBS Course. The petitioner applied for seeking admission to MBBS Course 2006 in NRI Category in Christian Medical College and Hospital, respondent No.3. The candidates seeking admission in NRI or NRI sponsored Category were not required to appear in the entrance test but the admission to them was to be granted on the basis of the marks secured by them in the qualifying examination. The last date for the submission of the application form was June 20,2006, which was extended till June 30, 2006. As per the admission schedule, the candidates were

required to be present for counselling on July 17,2006. Applicants seeking admission to MBBS Course in NRI Category were bifurcated into two categories. Applicants who were Non-Resident Indians themselves were placed in Category 'A' whereas applicants who were sponsored by an NRI were placed in category 'B'. A total of seven seats were meant for NRI category. As per the merit list, published on the wedsite of the respondent -College, the petitioner was placed at serial No.2 in category 'B' of NRI sponsored category. In the aforesaid category one Tejaswini Sidhuwas listed at serial No.1, having secured 90% marks whereas petitioner having secured 85.33% marks was listed at serial No.2. Similarly Abinav Mutneja having secured 82.33% marks was listed at serial No.3.

The counselling for aforesaid NRI seats was scheduled for July 17,2006. Since all the seven seats were filled up from candidates available in category 'A', no seat was available for applicants in category 'B'. However, as per the schedule indicated by the College, the next counselling for the NRI Categorywas fixed for August 11,2006.

The petitioner claims that on August 11,2006 also, he went to the College for attending counselling but was informed that no seat was available in NRI category. Again, as per the information published on the wedsite of the College, further counselling was schedule to be held on August 31,2006 for the saidCategory.

According to the petitioner, he went to the respondent-College on August 31,2006, when he was informed that one seat had become available. The petitioner claims that he was called for counselling being second in the merit list and was required by the Counselling Committee to fill up the form with regard to the documents which he had brought along with him i.e. his original

certificates and testimonials. According to the petitioner, he produced the original of the matriculation certificate, detailed marks sheet of the qualifying examination (+2), undertaking attested by the Notary, his photographs and NRI sponsorship letter. The petitioner claims that the checking official ticked the requisite proforma in token of the availability of aforesaid original documents. The petitioner has appended a copy of the aforesaid proforma ticked by the checking official as annexure P/3 with the present petition. However, when the counselling of the petitioner was still in progress, the counselling Committee realized that the NRI sponsorship letter produced by the petitioner was not the original letter but was merely a photocopy. Although the petitioner maintains that he tried to convince the said Committee that the said letter was original, but the Counselling Committee members did not accept the request of the petitioner. Since the original NRI sponsorship letter in favour of the petitioner was not produced by him at the time of counselling, the application of the petitioner was rejected. Admission was granted to the next available candidate, as per the merit list. In these circumstances, Abinav Mutneja respondent No.4 was granted admission.

The petitioner claims that he submitted a representation dated September 1,2006 (Annexure P/4) to the Director, Christian Medical College and Hospital, Ludhiana bringing to the aforesaid fact to his notice. The matter was even reported to the Baba Farid University of Health Sciences.

However, through a communication dated September 5,2006, annexure P/5, the College informed the Vice Chancellor of respondent-university that the matter could not be reopened inasmuch as the admission had already been granted in the

meantime to the next available candidate.

The claim of the petitioner has been contested by the respondent-College. In the written statement filed on behalf of the College, it has been maintained that at the time of counselling, held on August 31,2006, the petitioner was required to submit his documents along with all original testimonials but the petitioner had merely produced a faxed/photocopy of the sponsorship letter. The respondents have also maintained that at the time when the documents were produced before the checking official by the petitioner, tick marks was put on the check list but it was only at the time of counselling that it transpired that the sponsorship document of the petitioner was not the original document. According to the respondents, in view of the specific stipulation contained in the Prospectus that all the original certificates/testimonials were required to be produced at the time of counselling and failure thereof would result in cancellation of the candidature, the candidature of the petitioner was not taken into consideration and the admission was granted to the person next in the merit list. The respondents have also appended, copy of the minutes of the Undergraduate Selection Committee held on August 31,2006, annexure R-3/2 with the written statement. In the said minutes, the details of the happenings at the time of counselling have been given and it has been recorded that father of the petitioner, namely, Dr.J.S.Gill, had produced a photocopy of the faxed letter which was already available on the file of the College. He was told that he should be giving all documents in original only. However, father of the petitioner stated that he had misplaced the original and searched his documents folder but was unable to find the same. It was in these circumstances that the next candidate Abinav Mutneja was called and all his documents being

found in order, was granted admission. It is also recorded in the minutes that later on father of the petitioner appeared at 4.00 p.m., when an emergency meeting of the selection committee was called. At that point of time, the father of the petitioner produced some other documents which had not been produced by him in the morning at the time of counselling.

The petitioner has filed replication to the written statement filed by the respondents.

We have heard learned counsel for the parties and have also gone through the record of the case with their assistance.

During the course of arguments, Shri D.S.Patwalia,learned counsel appearing for the respondent-College has also produced before us the original application form and the documents submitted by the applicant, at the time of counselling. We have perused the aforesaid documents and find that the stand taken by the respondent-College in the written statement is absolutely justified. The sponsorship letter in favour of the petitioner dated June 20,2006 has been issued by Dr. Brijinder Singh Kochhar who is a resident of USA who has expressed his willingness to sponsor the petitioner, Prabhjit Singh Gill, for pursuing his studies in the field of medicine. However, the said sponsorship letter is only a faxed copy of the original. Similar is the certificate issued by the Manager of the WesBanco with regard to the financial status of Dr. Kochhar. Even the aforesaid certificate is merely a faxed copy.

Shri Arun Jain, learned counsel appearing for the petitioner has vehemently argued that the petitioner was in possession of the sponsorship letter dated June 20,2006, and it was on account of the aforesaid fact that he had applied for admission to MBBS course in NRI Category 'B'. Shri Jain has maintained that

there was absolutely no justification for the petitioner to have not produced the original certificate of sponsorship at the time of counselling held on August 31,2006. In support of the aforesaid contentions, learned counsel has also relied upon the proforma tick marked by the checking official which has been appended as Annexure P/3 with the petition. The original of Annexure P/3 has also been produced before us during the course of arguments. On that basis the learned counsel maintains that once the checking staff had found that all the certificates mentioned in the proforma were in order and originals were produced, then later on the Counselling Committee could not have rejected the claim of the petitioner on account of the allegation that the said certificate of sponsorship was merely a photocopy.

On the other hand, Shri D.S.Patwalia, learned counsel appearing for the respondent-College has specifically relied upon the minutes of the Undergraduate Selection Committee meeting held on August 31,2006 at 4.00 p.m. All the facts with regard to the counselling of the petitioner have been noticed in the aforesaid minutes. It has also been noticed that at 4.00 p.m. when an emergency meeting of the Selection Committee was convened, the father of the petitioner had produced some other documents(original certificates) which had not been produced by the petitioner at the time of counselling in the morning. Learned counsel has maintained that since the specific stipulation contained in the prospectus was that a candidate seeking admission was required to produce the original certificates/testimonials, the failure thereof would obviously result in rejection of candidature of such a candidate.

We have duly considered the rival contentions of the learned counsel for the parties. In our considered view, there is no

merit in the present petition.

It is not in dispute that the petitioner is more meritorious than respondent No.4, having secured more marks in the qualifying examination. However, the fact remains that at the time of counselling held on August 31,2006, the petitioner had failed to produce the original documents. It was specifically stipulated in the prospectus that a candidate seeking admission was required to produce the original documents/testimonials at the time of counselling. Since the original sponsorship letter could not be produced by the petitioner at the time of counselling, the respondent-College was absolutely justified in offering the seat to the next available candidate on the merit list. There is absolutely no justification to believe the allegations of the petitioner that in spite of the fact that he had produced the original sponsorship letter at the time of counselling, admission was denied to him and person lower in merit i.e. respondent No.4 was admitted. The College had nothing to gain by the aforesaid process. No mala fides whatsoever have been alleged in the petition, neither any allegations of favourtism have been pleaded, In these circumstances, it is the pleas raised by the petitioner, as against the pleas raised by the College, which have to be weighed. We have absolutely no doubt that the stand taken by the respondent-College is justified and is as per the factual position. We have no material to doubt the correctness of the pleas raised by College.

At this stage, Shri Arun Jain learned counsel appearing for the petitioner has also brought to our notice, an order dated September 11,2006 issued by the Principal Secretary to Government of Punjab , Department of Medical Education and Research (Annexure P/6) with the petition. As per the aforesaid

order,according to the learned counsel for the petitioner, the number of NRI seats in Christian Medical College,Ludhiana has been raised to 8 during the session 2006-07. On the basis of the aforesaid order passed by the State government, the petitioner claims that since one more seat has become available to the College, the claim of the petitioner be considered for the said seat.

Shri D.S.Patwalia, learned counsel appearing for the respondent-College has,however, shown his ignorance of the said fact as to whether number of NRI seats in the college has bee raised from 7 to 8.

However, from the perusal of the order Annexure P/6, we find that some directions have been issued by the State Government. Since the learned counsel or the respondent-College is not in a position to comment upon the aforesaid fact,, therefore, we direct that if an additional seat has become available to the respondent-College for being filled from NRI category, the same be filled up in accordance with law and as per the schedule of counselling announced by the respondent-College, through a notice put on the Notice Board and also published on the Website. However, if the aforesaid factual position claimed by the petitioner is incorrect, then no further action is required to be taken by the College in this regard.

As a result of the aforesaid discussion, we do not find any merit in the present petition. The same is dismissed.

(Viney Mittal)
Judge

September 26,2006 (H.S.Bhalla)
sks Judge